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14 ATTORNEYS FOR PLAINTIFF

15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF WASHINGTON**

17 LAWRENCE DARREN MOLDER,

18 Plaintiff,

19 v.

20 BNSF RAILWAY CO.,

21 Defendant.

22 **NO. 2:18-CV-00257**

23 **PLAINTIFF'S OBJECTION TO**
24 **COSTS**

25 **INTRODUCTION**

26 Before a party may recover costs for a obtaining a transcript, it must prove the transcript was necessarily obtained for use in the case. *See* 28 U.S.C. § 1920(2). Parties are required to prove the reasonableness of a transcript's cost by demonstrating that the amount

PLAINTIFF'S OBJECTION TO COSTS

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1 charged per page was within the amount allowed. *See, e.g., O'Neal v. Alzheimer & Gray*, No.
 2 99-cv-0976, 2002 U.S. Dist. LEXIS 17943, at *5 (N.D. Ill. Sep. 18, 2002) ("For instances
 3 where the invoice lists no total number of pages transcribed, the court cannot determine if the
 4 charges are within the Judicial Conference guidelines, thus they are denied.").

5 Here, Defendant BNSF Railway Co. seeks to tax \$3,765.35 against Plaintiff Darren
 6 Molder for deposition transcripts. (Bill of Costs (Dkt. 115) at 1.) For the below-discussed
 7 reasons, \$1,027.95 of this amount cannot be properly taxed against Molder. Only \$2,737.40
 8 should therefore be taxed against Molder for deposition transcripts.
 9

10 ARGUMENT

11 BNSF seeks \$234 for R. Bishop's deposition transcript, \$219.60 for Borsheim's
 12 deposition transcript, \$292.20 for Dirks's deposition transcript, \$164.15 for Pruitt's deposition
 13 transcript, and \$115 for Stiver's deposition transcript. (R. Bishop Receipt (Dkt. 115 at 10 of
 14 11); Borsheim Receipt (Dkt 115 at 8 of 11); Dirks's Receipt (Dkt 115 at 7-11); Montgomery
 15 Scarp and Chait Slip List (Dkt. 115 at 3).) For summary judgment, BNSF cited to none of
 16 these transcripts. (Def. Summ. J. Br. (Dkt. 32); Def. Summ. J. Reply Br. (Dkt. 71).) It is
 17 therefore not entitled to recover costs for them. *See, e.g., O'Neal*, 2002 U.S. Dist. LEXIS
 18 17943, at *5.
 19

20 CONCLUSION

21 BNSF is not entitled to costs for deposition transcripts to which it did not cite. Of the
 22 \$3,765.35 BNSF seeks for deposition transcripts, \$1,027.95 is for transcripts of depositions to
 23 which BNSF did not cite. Only \$2,737.40 should therefore be taxed against Molder for
 24 deposition transcripts.
 25
 26

THE MOODY LAW FIRM

Dated: September 19, 2019

/s/ Nicholas D. Thompson

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this action. I am an attorney with The Moody Law Firm, Inc., whose address is 500 Crawford Street, Suite 200, Portsmouth, VA 23704.

I hereby certify that a true and complete copy of PLAINTIFF'S OBJECTION TO COSTS has been filed with the United State District Court via ECF system, which gives automatic notification to the following interested parties:

Michael E. Chait
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Attorney for Defendant

PLAINTIFF'S OBJECTION TO COSTS

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1 I declare under penalty under the laws of the United States of America
2 that the foregoing information is true and correct.

3 Dated: September 19, 2019

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5 /s/ Nicholas D. Thompson
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